

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN ASSEMBLY JUNE 28, 2005

AMENDED IN ASSEMBLY JUNE 15, 2005

AMENDED IN SENATE MAY 2, 2005

AMENDED IN SENATE APRIL 11, 2005

## SENATE BILL

**No. 550**

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### Introduced by Senator Speier

February 18, 2005

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An act to ~~amend Section 1798.84 of, and to add Title 1.805 (commencing with Section 1798.79) to Part 4 of Division 3 of, the~~ *add Section 1798.91.5 to the Civil Code, relating to personal information.*

#### LEGISLATIVE COUNSEL'S DIGEST

SB 550, as amended, Speier. Data brokers.

Existing law regulates businesses that disclose personal information about California residents to 3rd parties.

*Existing law prohibits a telephone or telegraph corporation from making available to any other person or corporation, without prior written consent, specified information relating to a residential subscriber, including personal calling patterns, credit or other personal financial information, services purchased, and demographic information, as specified. Existing law authorizes a subscriber injured by a violation of these provisions to institute a civil action to recover damages.*

*This bill would prohibit an Internet service provider or electronic mail service provider from making available to any other person or provider, without prior written consent, specified information relating*

*to a consumer, including the contents of any e-mail sent or received, personal e-mail patterns, credit or other personal financial information, services purchased, and demographic information, as specified. The bill would authorize a consumer injured by a violation of these provisions to institute a civil action to recover damages.*

~~This bill would enact the California Data Broker Access and Accuracy Act of 2005. The act would regulate the disclosure of personally identifiable information by data brokers, as defined. The act would require data brokers to disclose to individuals who are the subject of the information all personally identifiable information about the individual and the specific sources of the information. The act would also require data brokers to reinvestigate disputed items of information, to post a specified notice on their Web sites, and to maintain specified procedures to control access to the information. The act would also provide for civil actions, injunction, and the imposition of civil penalties for violations of these provisions.~~

~~Existing law requires a business to take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing the personal information which is no longer to be retained by the business by specified means. Existing law authorizes a customer injured by a violation of these provisions to institute a civil action to recover damages.~~

~~This bill would additionally authorize any individual whose personal information is disclosed and who is injured by a violation of these provisions to institute a civil action to recover damages.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1798.91.5 is added to the Civil Code, to
- 2     read:
- 3     1798.91.5. (a) No Internet service provider or electronic
- 4     mail service provider shall make available to any other person or
- 5     provider, without first obtaining the consumer's consent, in
- 6     writing, any of the following information:
- 7         (1) The contents of any e-mail sent or received by the
- 8         consumer.
- 9         (2) The consumer's personal e-mail patterns, including any
- 10        listing of the e-mail addresses of the e-mail recipients contacted

1 *by the consumer; but excluding the identification to the e-mail*  
2 *recipient of the person e-mailing and the e-mail address from*  
3 *which the e-mail was placed.*

4 *(3) The consumer's credit or other personal financial*  
5 *information.*

6 *(4) The services that the consumer purchases from the*  
7 *provider or from independent suppliers of information services*  
8 *who use the provider's Internet connection or equipment to*  
9 *provide service to the consumer.*

10 *(5) Demographic information about individual consumers, or*  
11 *aggregate information from which individual identities and*  
12 *characteristics have not been removed.*

13 *(b) Any consumer who gives his or her prior written consent*  
14 *for the release of one or more of the categories of personal*  
15 *information specified in subdivision (a) shall be informed by the*  
16 *Internet service provider or electronic mail service provider*  
17 *regarding the identity of each person or corporation to whom the*  
18 *information has been released, upon written request. The*  
19 *provider shall notify the consumer of the provisions of this*  
20 *subdivision whenever consent is requested pursuant to this*  
21 *subdivision.*

22 *(c) Any consumer who has, pursuant to subdivision (b), given*  
23 *prior written consent for the release of one or more of the*  
24 *categories of personal information specified in subdivision (a)*  
25 *may rescind this consent upon submission of a written notice to*  
26 *the Internet service provider or electronic mail service provider.*  
27 *The provider shall cease to make available any personal*  
28 *information about the consumer, within 30 days following receipt*  
29 *of notice given pursuant to this subdivision.*

30 *(d) This section does not apply to any of the following:*

31 *(1) Information provided by consumers for inclusion in the*  
32 *provider's directory of consumers.*

33 *(2) Information provided to a collection agency by the*  
34 *provider exclusively for the collection of unpaid debts.*

35 *(3) Information provided to an emergency service agency*  
36 *responding to a 911 telephone call or any other call*  
37 *communicating an imminent threat to life or property.*

38 *(4) Information provided to a law enforcement agency in*  
39 *response to lawful process.*

1     (5) *Information transmitted between Internet service providers*  
2     *or electronic mail service providers pursuant to the furnishing of*  
3     *electronic mail service.*

4     (6) *Information required to be provided by the provider*  
5     *pursuant to state or federal law, rules, or orders regarding the*  
6     *provision through the Internet by parties other than the Internet*  
7     *service provider or electronic mail service provider of telephone,*  
8     *electronic mail, or other information services.*

9     (7) *Information provided in response to a request pursuant to*  
10    *subdivision (a) of Section 530.8 of the Penal Code.*

11    (e) *Every violation of this section is a ground for a civil suit by*  
12    *the aggrieved consumer against the Internet service provider or*  
13    *electronic mail service provider and its employees responsible*  
14    *for the violation.*

15    (f) *For purposes of this section, the following definitions*  
16    *apply:*

17    (1) *“Electronic mail” or “e-mail” means an electronic*  
18    *message that is sent to an e-mail address and transmitted*  
19    *between two or more telecommunications devices, computers, or*  
20    *electronic devices capable of receiving electronic messages,*  
21    *whether or not the message is converted to hard copy format*  
22    *after receipt, viewed upon transmission, or stored for later*  
23    *retrieval. “Electronic mail” or “e-mail” includes electronic*  
24    *messages that are transmitted through a local, regional, or*  
25    *global computer network.*

26    (2) *“Electronic mail address” or “e-mail address” means a*  
27    *destination, commonly expressed as a string of characters, to*  
28    *which electronic mail can be sent or delivered. An “electronic*  
29    *mail address” or “e-mail address” consists of a user name or*  
30    *mailbox and a reference to an Internet domain.*

31    (3) *“Electronic mail service provider” means any person,*  
32    *business, or organization, including an Internet service provider,*  
33    *that is an intermediary in sending or receiving electronic mail or*  
34    *that provides to end users of the electronic mail service the*  
35    *ability to send or receive electronic mail.*

36    (4) *“Internet” means the global information system that is*  
37    *logically linked together by a globally unique address space*  
38    *based on the Internet Protocol (IP), or its subsequent extensions,*  
39    *and that is able to support communications using the*  
40    *Transmission Control Protocol/Internet Protocol (TCP/IP) suite,*

1 *or its subsequent extensions, or other IP-compatible protocols,*  
2 *and that provides, uses, or makes accessible, either publicly or*  
3 *privately, high level services layered on the communications and*  
4 *related infrastructure described in this paragraph.*

5 (5) *“Internet service provider” means an entity, to the extent*  
6 *that the entity is transmitting, routing, or providing connections*  
7 *for Internet communications initiated by or at the direction of*  
8 *another person, between or among points specified by a user, of*  
9 *material placed online by a user, storing or hosting that material*  
10 *at the direction of a user, or referring or linking users to that*  
11 *material.*

12 (6) *“Recipient” means the addressee of an e-mail.*

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15 **All matter omitted in this version of the bill**  
16 **appears in the bill as amended in the**  
17 **Assembly, June 28, 2005 (JR11)**  
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